

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

January 10, 2008

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, January 10, 2008, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: M.S. Mitchell, Chair; Don Anderson, Vice Chair; David Dennis; Darrell Downing; David Foster; Bud Hentzen; Hoyt Hillman; Bill Johnson; Ronald Marnell; John W. McKay Jr.; Don Sherman (In @1:36 P.M.); Debra Miller Stevens and G. Nelson Van Fleet. Michael Gisick was absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Derrick Slocum, Associate Planner and Maryann Crockett, Recording Secretary.

-
1. Approval of the December 20, 2007 MAPC minutes.

MOTION: To approve the December 20, 2007, minutes, as amended.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (11-0).
(**FOSTER** abstained because he was not present at the meeting).

2. Consideration of Subdivision Committee recommendations from the meeting of December 27, 2007.

❖ PUBLIC HEARINGS – VACATION ITEMS

2-1. VAC 2007-31: Request to vacate a portion of a sight distance easement

APPLICANTS: Crestview Country Club Association c/o Kerry Clark, President

AGENT: Martin & Churchill, Chartered, c/o Brad T Murphree

LEGAL DESCRIPTION: Generally described as the southern 10-foot wide portion of the easement for road intersection site distance, dedicated by separate instrument (Film/Page 28758160, recorded 2-22-2006), Wichita, Sedgwick County, Kansas

LOCATION: Generally located on the southeast corner of 13th Street North & 127th Street East (WCC II & BoCC 1)

REASON FOR REQUEST: Country club sign

CURRENT ZONING: The site and adjacent northern property are zoned “LC” Limited Commercial. Abutting southern and eastern property are zoned “SF-20” Single-family Residential. Adjacent western property is zoned “SF-5” Single-family Residential.

The applicant is requesting vacation of the southern 10-foot wide portion of the site triangle. There are no franchised or public utilities in the easement. This is the only corner of this intersection where 75-foot of half street right-of-way has not been dedicated for future turn lanes. This case is within the City of Wichita's 3-mile jurisdiction ring and as such will have to be recommended by both the Wichita City Council and the Sedgwick County Board of County Commissioners.

NOTE: This case was originally scheduled to be considered by the MAPC at their November 15, 2007 meeting, but was deferred at the applicant's request until the December 6, 2007 MAPC meeting. The MAPC, at their December 6, 2007 meeting sent the case back to the Subdivision Committee for reconsideration, at the December 27, 2007 meeting.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the described portion of the of the easement for road intersection site distance easement, dedicated by separate instrument, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time October 25, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the easement for road intersection site distance, dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the easement for road intersection site distance easement, dedicated by separate instrument described in the petition should be approved with conditions:
 1. Vacate the south 10-foot wide portion of the easement for road intersection site distance, dedicated by separate instrument as approved by the franchised utilities and City & County Public Works/Water & Sewer/Storm Water. Provide Planning staff with a legal description of the approved vacated (portion) of the easement on a word document via e-mail.
 2. The remainder of the easement for road intersection site distance shall be dedicated as a street right-of-way agreement, per the recommendation of the Traffic Engineer/County Engineer.
 3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If utilities are to be relocated retain the easement, until they are relocated and a replacement easement is recorded with the Register of Deeds to cover the relocated utilities. Provide Planning Staff with the original dedication of easement for relocated public utilities to be recorded with the Register of Deeds.
 4. All improvements shall be according to City Standards, at the applicant's expense.
 5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required

documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the south 10-foot wide portion of the easement for road intersection site distance, dedicated by separate instrument as approved by the franchised utilities and City & County Public Works/Water & Sewer/Storm Water. Provide Planning staff with a legal description of the approved vacated (portion) of the easement on a word document via e-mail.
2. The remainder of the easement for road intersection site distance shall be dedicated as a street right-of-way agreement, per the recommendation of the Traffic Engineer/County Engineer.
3. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If utilities are to be relocated retain the easement, until they are relocated and a replacement easement is recorded with the Register of Deeds to cover the relocated utilities. Provide Planning Staff with the original dedication of easement for relocated public utilities to be recorded with the Register of Deeds.
4. All improvements shall be according to City Standards, at the applicant's expense.
5. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve, subject to staff recommendation.

MCKAY moved, **ANDERSON** seconded the motion, and it carried (11-0).
(**FOSTER** abstained due to a conflict of interest).

2-2. VAC 2007-40: Request to vacate a portion of a platted reserve

<u>OWNER/AGENT:</u>	Greenwich 13, LLC, c/o Cathy Erickson MKEC Engineering Consultants Inc, c/o Brian Lindebak
<u>LEGAL DESCRIPTION:</u>	Reserve "B," the Greenwich Office Park Addition, Wichita, Sedgwick County, Kansas
<u>LOCATION:</u>	Generally located on the north side of 13 th Street North, west of Greenwich Road (WCC #II)
<u>REASON FOR REQUEST:</u>	Revert to street right-of-way (ROW)
<u>CURRENT ZONING:</u>	Subject property, abutting and adjacent (across 13 th) northern, western and southern properties are zoned "LI" Limited Industrial. Abutting eastern properties are zoned "GI" General Industrial and "SF-5"

Single-family Residential. Other adjacent southern property (across 13th) is zoned "SF-20" Single-family Residential

The applicants are requesting consideration for the vacation of platted Reserve "B," Greenwich Office Park Addition. The applicant proposes to dedicate the reserve as public street ROW. Reserve "B" has been set aside for landscaping, irrigation, berming, monument signs, private drives and utilities confined to easements. The reserve appears to have direct access (west side) onto a public street, which in turn intersects 13th, an arterial: SUB2007-36, The Waterfront Residential Addition, approved by WCC 11-06-2007, but at this time staff has no record of it being recorded. Reserve "B" dead-ends on its east side. The reserve has an irregular width, being 50-foot wide on its west side and 32-feet wide on its east side. There are a 10-foot and a 15-foot drainage easements running parallel to the reserve's north and south sides. The Subdivision design standards for a commercial street include a 70-foot wide ROW. There are no narrow street standards for commercial streets in the Subdivision Regulations. Per the Subdivision Regulations, 10-104, Modification of Design Criteria, the MAPC may modify design criteria. In the past staff has recommended modified design criteria, which has been approved by the MAPC. There appears to be no utilities, water, sewer or manholes in the reserve. Per the plat's text, Reserve "B" shall be owned and maintained by the owner of Lot 3, Block 1, the Greenwich Office Park Addition. The Greenwich Office Park Addition was recorded November 13, 2007.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, Storm Water, Traffic Engineer, franchised utility representatives, and other interested parties, Staff recommends approval of the request to vacate platted Reserve "B," with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time November 29, 2007 which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted reserve and the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted reserve described in the petition should be approved with conditions;
 - 1. The reserve/proposed public ROW's width will remain the same as it is platted on the Greenwich Office Park Addition, but it will have 29-feet of paving, back to back. Provide a guarantee for the paving, per the standards for materials and depth for a commercial road. The guarantee must be provided prior to the case going to WCC for final action.
 - 2. The west side of the reserve/proposed public ROW is an entrance/exit point onto the site. Provide Fire with 20-feet of paved access ingress (entrance) and 24-feet of paved egress (exit) from the reserve/proposed public ROW onto the public ROW it intersects on its west side: SUB2007-36, The Waterfront Residential Addition, approved by WCC 11-06-2007: the 'Veranda' ROW intersection on the site plan. Provide a 24-foot radius on the ingress/egress onto of the proposed public ROW, 'Veranda'. If the applicant provides 20-foot of ingress and 20-feet of egress at this point, the radius of the median strip in the proposed public ROW must be 24-feet and must have a roll over curb. The city will not

be responsible for the maintenance and repair of the median strip and any uses located on it. Provide Fire with a survey of the 'Veranda' and 13th ROW's where they are adjacent to the subject site, showing all proposed and existing median strips, curb cuts, turn in radius, etc.

3. The east side of the reserve/proposed public ROW is a dead-end. Provide Fire with a 96-foot diameter cul-de-sac, or a 120-foot alternative hammerhead, or a 120-foot hammerhead, at the east end of the reserve/proposed public ROW; turn around. The turn around may be dedicated temporary, contingent on the extension (dedication of additional ROW) of the reserve/proposed public ROW to the east. For the first year after the vacation request's approval by the WCC, a cul-de-sac/hammerhead will have an approved gravel/surface, per Fire's recommendation; provide a guarantee for the approved gravel surface. Provide a guarantee for the paving of the permanent cul-de-sac, per commercial standards for design, materials and depth, to be used/in effect after one-year of the vacation requests approval by the WCC. The guarantee must be provided prior to the case going to WCC for final action.
4. Dedicate 15-foot street, drainage and utility easements, to run parallel to the north and south sides of the reserve/proposed public ROW. Provide to staff prior to the request going to the WCC for final action.
5. Provide staff with a restrictive covenant, which prohibits parking within the reserve/proposed public ROW and the 15-foot street, drainage and utility easements, that run parallel to the north and south sides of the reserve/proposed public ROW. Provide to staff prior to the request going to the WCC for final action.
6. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If utilities are to be relocated retain the easement, until they are relocated and a replacement easement is recorded with the Register of Deeds to cover the relocated utilities. Provide Planning Staff with the original dedication of easement for relocated public utilities to be recorded with the Register of Deeds.
7. All improvements shall be according to City Standards, at the applicant's expense.
8. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. The reserve/proposed public ROW's width will remain the same as it is platted on the Greenwich Office Park Addition, but it will have 29-feet of paving, back to back. Provide a guarantee for the paving, per the standards for materials and depth for a commercial road.
2. The guarantee must be provided prior to the case going to WCC for final action.

3. The west side of the reserve/proposed public ROW is the entrance/exit point. Provide Fire with 20-feet of paved access ingress (entrance) and 24-feet of paved egress (exit) from the reserve/proposed public ROW onto the public ROW it intersects on its west side: SUB2007-36, The Waterfront Residential Addition, approved by WCC 11-06-2007: the 'Veranda' intersection on the site plan. Provide a 24-foot radius on the ingress/egress onto of the proposed public ROW, 'Veranda'. If the applicant provides 20-foot of ingress and 20-feet of egress at this point, the radius of the median strip in the proposed public ROW must be 24-feet and must have a roll over curb. The city will not be responsible for the maintenance and repair of the median strip and any uses located on it. Provide Fire with a survey of the 'Veranda' and 13th ROW's where they are adjacent to the subject site, showing all proposed and existing median strips, curb cuts, turn in radius, etc.
4. The east side of the reserve/proposed public ROW is a dead-end. Provide Fire with a 96-foot diameter cul-de-sac, or a 120-foot alternative hammerhead, or a 120-foot hammerhead, at the east end of the reserve/proposed public ROW; turn around. The turn around may be dedicated temporary, contingent on the extension of the reserve/proposed public ROW to the east. For the first year after the vacation request's approval by the WCC, a cul-de-sac/hammerhead will have an approved gravel/surface, per Fire's recommendation; provide a guarantee for the approved gravel surface. Provide a guarantee for the paving of the permanent cul-de-sac, per commercial standards for design, materials and depth, to be used/in effect after one-year of the vacation requests approval by the WCC. The guarantee must be provided prior to the case going to WCC for final action.
5. Dedicate 15-foot street, drainage and utility easements, to run parallel to the north and south sides of the reserve/proposed public ROW. Provide to staff prior to the request going to the WCC for final action.
6. Provide staff with a restrictive covenant, which prohibits parking within the reserve/proposed public ROW and the 15-foot street, drainage and utility easements, that run parallel to the north and south sides of the reserve/proposed public ROW. Provide to staff prior to the request going to the WCC for final action.
7. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If utilities are to be relocated retain the easement, until they are relocated and a replacement easement is recorded with the Register of Deeds to cover the relocated utilities. Provide Planning Staff with the original dedication of easement for relocated public utilities to be recorded with the Register of Deeds.
8. All improvements shall be according to City Standards, at the applicant's expense.
9. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve, subject to staff recommendation.

HILLMAN moved, **ANDERSON** seconded the motion, and it carried (12-0).

2-3. VAC 2007-42: Request to vacate an easement dedicated by separate instrument

- APPLICANT/OWNER:** Catholic Diocese of Wichita c/o Jim Sheldon, Director of Catholic Cemeteries
- LEGAL DESCRIPTION:** Generally described as the utility easement dedicated by separate instrument located on the east 10-feet of Lots 52-60 even (Miscellaneous Record 69, page, recorded May 16, 1929) & the utility easement dedicated by separate instrument located on the north 5-feet and the east 8-feet of Lot 50, (Miscellaneous Book 513, page135, recorded February 5, 1963) all on Rutan Avenue, all in the Indiana Subdivision in Vincennes Addition, Wichita, Sedgwick County, Kansas.
- LOCATION:** Generally located east of Hillside Avenue, south of Kellogg Street, on the southeast corner of Orme Street & Rutan Avenue East (WCC #III)
- REASON FOR REQUEST:** Expansion of cemetery
- CURRENT ZONING:** The site (ZON2007-41) and the abutting northern and eastern properties are zoned "B" Multi-family Residential. Abutting southern and adjacent western properties are zoned "TF-3" Two-family/Duplex Residential

The applicant is requesting vacation of the described easements dedicated by separate instrument. There are no manholes, water or sewer lines located in the described easements. Contact Westar in regards to their utilities in the easements.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the described easements dedicated by separate instrument, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time December 20, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the easements dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the easements dedicated by separate instrument described in the petition should be approved with conditions:
1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Contact Westar in regards to their utilities in the easements. If utilities are to be relocated retain the easement, until they are relocated and a replacement easement is recorded with the Register of Deeds to cover the relocated utilities. Provide Planning Staff with the original dedication of easement for relocated public utilities to be recorded with the Register of Deeds. Relocation of utilities will be at the owner's expense and per City standards.

2. All improvements shall be according to City Standards, at the applicant's expense.
3. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Contact Westar in regards to their utilities in the easements. If utilities are to be relocated retain the easement, until they are relocated and a replacement easement is recorded with the Register of Deeds to cover the relocated utilities. Provide Planning Staff with the original dedication of easement for relocated public utilities to be recorded with the Register of Deeds.
- (2) All improvements shall be according to City Standards, at the applicant's expense.
- (3) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve, subject to staff recommendation.

HILLMAN moved, **ANDERSON** seconded the motion, and it carried (12-0).

2-4. VAC 2007-43: Vacation request to allow for additional uses within Reserve "C," Pier 37 Addition

<u>OWNER/AGENT:</u>	RRGNL, LLC, c/o Jay Russell Baughman Company, PA, c/o Phil Meyer
<u>LEGAL DESCRIPTION:</u>	Reserve "C," Pier 37 Addition, Wichita, Sedgwick County, Kansas
<u>LOCATION:</u>	Generally located midway between 29 th & 37 th Streets North, west of Ridge Road, & southwest of Wild Rose Circle, a private street. (WCC #V)
<u>REASON FOR REQUEST:</u>	Storage building(s)
<u>CURRENT ZONING:</u>	Subject property is zoned "LI" Limited Industrial & "SF-5" Single-family Residential. Abutting northern and eastern properties are zoned

“SF-5.” Abutting southern property is zoned “LI.” Abutting western property is zoned SF-20” Single-family Residential.

The applicant is requesting consideration for the vacation of a portion of the platted Reserve “C” and the restriction of uses listed in the plat’s text, to allow a storage building or buildings. The storage building(s) will be for the use of the homeowners on Lots 1-30, Block A, Pier 37 Addition. If the vacation request is approved a storage building(s), (per the UZC a “warehouse, self storage”) would be permitted in the “LI” zoned portion of Reserve “C,” but not the “SF-5” zoned portion, per the UZC. Currently Reserve “C’s” uses are restricted to private streets confined to easements, open space, drainage purposes, landscaping, parking, berms, and utilities as confined to easements. Per the plat’s text, Reserve “C” shall be owned and maintained by the homeowners association for the addition. The applicant owns all of the Pier 37 Addition. Water, sewer and manholes are located in easements within the reserve. Comments from franchised utilities & Storm Water have not been received and are needed to determine if they have utilities located within the reserve. An eastern (“SF-5”) portion of the reserve appears to be in the FEMA flood plain of the Big Slough North drainage area. The Pier 37 Addition was recorded with the Register of Deeds February 28, 2007.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, Storm Water, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the portion of the platted Reserve “C” and the uses of that portion of the platted Reserve “C” as described in the approved legal description to allow that portion of the platted reserve to allow a storage building(s) and any required screening in that portion of the vacated reserve.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time December 20, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted reserve’s plat’s text, to amend it to allow additional uses within a portion of the platted reserve and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the above-described portion of the platted reserve’s plat’s text, to amend it to allow additional uses within a portion of the platted reserve described in the petition should be approved with conditions;
- (1) Vacate the plat’s text’s restriction of uses in the “LI” zoned portion of the platted Reserve “C” the Pier 37 Addition, amending it to allow storage buildings as permitted in the “LI” Limited Industrial zoning district and any required screening. This is contingent on Storm Water and utilities approving. Retain the plat’s text’s listed uses for Reserve “C.” Development of the storage-building site will comply with all screening, landscaping, compatibility setbacks and all other applicable UZC standards and codes. Provide Staff with a copy of the approved legal of the “LI” zoned portion of Reserve “C,” via e-mail on a Word document.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant’s expense.
 - (3) All improvements shall be according to City Standards and at the applicant’s expense.

- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the platlor's text's restriction of uses in the "LI" zoned portion of the platted Reserve "C" the Pier 37 Addition, to allow storage buildings as permitted in the "LI" Limited Industrial zoning district and any required screening. This is contingent on Storm Water and utilities approving. Retain the platlor's text's listed uses for Reserve "C." Development of the storage-building site will comply with all screening, landscaping, compatibility setbacks and all other applicable UZC standards and codes. Provide Staff with a copy of the approved legal of the "LI" zoned portion of Reserve "C," via e-mail on a Word document.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant's and at the applicants' expense.
3. All improvements shall be according to City Standards and at the applicant's expense.
4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve, subject to staff recommendation.

HILLMAN moved, **ANDERSON** seconded the motion, and it carried (12-0).

SHERMAN In @1:36 P.M.

❖ **PUBLIC HEARINGS**

3. **Case No.: ZON2007-36** – Steel Sunflowers LLC (owner/applicant); Poe & Associates, c/o Tim Austin (agent) Request City zone change from "SF-5" Single-family Residential, "TF-3" Two-family Residential and "LC" Limited Commercial to "MF-29" Multi-family Residential on property described as;

The West 340 feet of American Legion Addition, Wichita, Sedgwick County, Kansas. Generally located South of 31st Street South and east of Wichita Street.

BACKGROUND: The application area is approximately 3.41 acres of platted land zoned LC, TF-3 and SF-5, located west of South Broadway Avenue and south of 31st Street South. The application area is undeveloped, but has been platted with single-family lots. The applicant is seeking "MF-29" zoning in order to develop an apartment/multi-family development. The current 32nd Street South Circle right-of-way, through the south one-third of the application area, will have to be vacated to ultimately be a part of the application. The street is platted but has not been installed.

Property zoned LC and SF-5 abuts the subject site on the east and is partially developed with an American Legion Post. Farther to the east is property zoned SF-5 and GC all developed as a salvage yard. To the west, is property zoned LC, B and SF-5 which is developed with a group quarters, single-family residences and contains vacant lots. To the south of the subject site is SF-5 zoning developed with single-family residences. The property to the north of the subject site is zoned GC and SF-5 which is developed with car sales lot, a construction service, offices, apartments and a couple single-family residences.

In this particular area, there is a mix of uses and zones. Just within a four-square block area, there are properties zoned LC, GC, LI, SF-5, B and TF-3. This rezone would eliminate the TF-3 and LC zoned property within the application area. The Unified Zoning Code (UZC) permits MF-29 zoning for up to 29 dwelling units (DU's) per acre, while TF-3 allows 14.5 DU's (with a conditional use) and LC allows 75.1 DU's per acre. As currently zoned, the subject site could potentially allow up to a total of 119 dwelling units. With the rezone to MF-29, the site would be allowed 99 dwelling units, a reduction of 20 dwelling units with a rezone. Also, the MF-29 zone permits building heights up to 45 feet while the LC zone permits building heights up to 80 feet. The proposed rezoning of the subject site to MF-29 would also buffer the single-family residences on the south and west from the salvage yard / car dealership, which fronts Broadway, but is currently visible due to the undeveloped subject site.

The UZC has "compatibility development standards" dealing with increased setback and height limitations that may come into play depending on the development plan. A zone change request does not require submission of a site plan like a "conditional use" application does. The landscape code requires a landscape buffer of one shade tree or two ornamental trees, without a fence, per 40 lineal feet of the multi-family property line abutting SF-5 or TF-3 zoning, or 50 lineal feet, with a fence. The trees must be planted within 15 feet of the platted property line.

This case was referred back to the MAPC by the City Council once the applicant completed a traffic analysis. The applicant submitted the completed analysis to the Traffic Department for approval and planning staff received the approved traffic analysis on December 7, 2007. This case was then scheduled for the soonest MAPC meeting in regards to public notice timing.

CASE HISTORY: The existing SF-5 zoning was established when this property was annexed into the city between 1951-1960. The LC and TF-3 zoning was established in a zone change (Z-2376), from SF-5 (or "AA") in 1982. Z-2377 was a rezone attempt on the southern half of the addition from "AA" (SF-5) to "A" (TF-3) in 1982, but the case was withdrawn. The application area is a part of the American Legion Addition, recorded in 1982.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC" Limited Commercial	Car Sales, Retail, Office
	"SF-5" Single-family Residential	Single-family Residences
SOUTH:	"SF-5" Single-family Residential	Single-family Residences
EAST:	"LC" Limited Commercial	Civic Club
	"GC" General Commercial	Salvage
	"SF-Single-family Residential	Salvage
WEST:	"LC" Limited Commercial	Group Quarters
	"B" Multi-family Residential	Group Quarters
	"SF-5" Single-family Residential	Single-family Residences

PUBLIC SERVICES: 31st Street South at this location is a four-lane minor arterial with 95 feet of right-of-way. 31st Street South carries 8,215 average daily trips. Wichita Street, which runs along the west side of the subject, is a local road with a 60-foot right-of-way. Apartments, a common use in a MF-29 zone, generate approximately 6.6 average daily vehicle trips per unit. With SF-5 and TF-3 zoning, a single-family residence can generate 9.6 and a condo can generate 5.9 average daily vehicle trips per unit. Under LC zoning, a fast-food restaurant can generate 496.1 and a supermarket can generate 111.5 average daily vehicle trips per 1,000 square feet of gross floor area (Source: Institute of Transportation

Engineers.) The applicant, at the request of the Wichita City Council, completed a traffic analysis examining the impact a multi-family development would have in the area in regards to traffic and the plan was approved by the Traffic Department. Other publicly provided services are available or can be extended to the site.

CONFORMANCE TO PLANS/POLICIES: Goal II of “The Wichita-Sedgwick County Comprehensive Plan Preparing for Change” indicates that there should be a variety of housing opportunities. Strategy II.A2 calls for requirements for medium and high-density residential development, which would include plan and architectural review to ensure compatibility with surrounding low-density residential areas. Residential Location Guidelines, p. 34 of the 1999 update of the Comprehensive Plan state: medium and high-density uses should be located within walking distance of neighborhood commercial centers, parks, schools and public transportation routes and within close proximity of employment centers; medium and high-density residential uses should be sited where they will not overload existing or planned facilities. The “2030 Wichita Functional Land Use Guide” reflects the sites current “LC” zoning by showing the site as being appropriate for “local commercial” uses and the sites currently SF-5 and TF-3 by showing those sites as being appropriate for “urban residential” uses.

RECOMMENDATION: A number of property owners in the immediate area are opposed to the zone change and proposed multi-family development. The property owners feel that a multi-family use may conflict with the existing residences in the area and have a negative impact on the traffic in the area. Protest petitions were received in response to the MAPC (approval) decision at the September 6, 2007 meeting. The protest encompasses about 35% of the surrounding property area, which triggers the requirement of a three-fourths vote by the City Council to approve this request.

Under MF-29 zoning, the site could be developed in theory with up to 29 units per acre. However, the UZC setback, height, and parking requirements, as well as housing code requirements, will limit the project scale. Another possible issue with this site and the proposed “MF-29” zoning is access. The site can have access onto a local street, S. Wichita Street, abutting the subject site on the west. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to vacation of street right-of-way and replat within one year and the following provisions of Protective Overlay #193:

1. Maximum height (as defined by the UZC) of the buildings shall be 35 feet for all structures.
2. Screening to be one and one-half times what is required by code.
3. Solid screening shall be provided around all dumpsters, per existing code requirements.
4. Landscaping, per code, shall be required.
5. 35-foot setbacks will be established along the south and north property line where adjacent to SF-5 zoning.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property zoned LC and SF-5 abuts the subject site on the east. Farther to the east is property zoned SF-5 and GC all developed as a salvage yard. To the west, is property zoned LC, B and SF-5 which is developed with a group quarters, single-family residences and contains vacant lots. To the south of the subject site is SF-5 zoning developed with single-family residences. The property to the north of the subject site is zoned GC and SF-5 which is developed with car sales lot, a construction service, offices, apartments and a couple single-family residences. The application area is a transitional area as demonstrated by the diverse set of zones and land uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned LC, TF-3 and SF-5. This current zoning would allow for a wide range of uses. With the current zoning, there is the possibility for a mix of uses, some of which would be too intense for this particular area. Additionally, the number of dwelling units that can be allowed

within this mix of zoning, according to the UZC, would be greater than the number of units that would be potentially allowed under the MF-29 zoning. Also, the proposed MF-29 zoning would not allow more intense commercial uses that are allowed within the LC zone.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request would downzone 35% of the property currently zoned LC. This down zoning would eliminate the possibility of intense commercial uses from operating in this area. The rezone would also create a buffer between commercial uses currently along South Broadway Avenue and single-family residential uses along Wichita Street, extending to the west. A traffic increase could occur if the primary access for any proposed residential development was established along S. Wichita Street. This is a point that should be addressed in the replatting process.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would provide additional multi-family housing to the market. Denial would, in effect, only delay the development of the property as the site's LC zoning permits multi-family uses, with a higher density than what is allowed in a MF-29 zone.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is consistent with a majority of the comprehensive plan goals and objectives of providing a range of housing opportunities, and that multi-family uses should be located in areas where adequate services are available or can be extended.
6. Impact of the proposed development on community facilities: Any development on the site will increase traffic over its undeveloped state, however multi-family projects on a use by use basis are low generators when compared to commercial uses. South 31st Street is a four-lane facility that has capacity to accommodate the uses allowed by the proposed zoning. Other services are available or can be extended through the platting process.

DERRICK SLOCUM, Planning Staff presented the staff report.

HENTZEN asked what the traffic study revealed?

SLOCUM said the study did not show a significant change in the amount of traffic in the area. He said due to setback requirements, they are projecting 29 units per acre, which was pretty conservative; however, he said he would let the agent speak further on that subject.

TIM AUSTIN, POE AND ASSOCIATES, AGENT FOR APPLICANT, stated that they were in agreement with staff recommendation. He said the traffic study indicated a negligible impact, which was well below the traffic threshold and minimum standards.

A. H. GANN, 204 WEST PATTERSON, said the land being rezoned comes right up to his backyard. He asked the Commission if they get copies of protests, and if they read them.

CHAIRMAN MITCHELL said sometimes they receive copies of those letters and sometimes they do not.

GANN asked who owned the property? He said according to the City Clerk's office, it still belongs to American Legion #401, but the staff report says Steel Sunflowers, LLC, and he doesn't understand that.

CHAIRMAN MITCHELL said they would ask the agent to answer that question.

WALTER HAYS, 302 W. 32nd STREET SOUTH, provided the Commissioners pictures of the last snow, and how it affected traffic in and around the neighborhood. He said if people park on either side of

the street, then you are down to one-lane of traffic. He said there are no sidewalks in the neighborhood so people have to walk in the street. He said he thought it was a bad deal to put in another 100 apartment units, and the kind of traffic that would generate in the area. He mentioned that 33rd Street is sand. He said the car rebuild shop on the corner of 33rd and Wichita parks cars on the street, which makes a mess. He said he has lived there for 20 years, and said it is a real good possibility that there will be negative impact on the neighborhood. He said this area does not need to be rezoned.

HILLMAN mentioned that this is the second time he has heard about the car rebuilding shop. He asked if staff has taken a look at the situation and if it has improved.

HAYS said the situation has not improved, and is especially bad at night. He mentioned that the business does not appear to be open during the day.

GARY JANTZ, 215 WEST PATTERSON, said the pictures shown during the staff report do not reflect the north side of the property on 31st Street which is a row of blighted businesses nor to the east of the property, which is a junk yard. He said he does not believe the kind of apartments being proposed are going to improve the community or make it a better place to live. He agreed that something needs to be done with the land, but doesn't think apartments are the answer. He asked what person moving into the apartments is going to want a view of the junkyard and blighted area. He said he understood the City's need for tax money, but didn't see this proposal as a positive move.

JEANETTE BURNISON, 210 WEST PATTERSON, said she does not believe the apartments being proposed are going to generate income because no one is going to want a balcony over a junkyard or blighted businesses. She referred to where she lived on Patterson, and said that people are going to come south down Wichita to Patterson to get to Broadway, and that her particular street will have higher traffic volume. She said she is also concerned about the proposed housing, and said that income level would not improve the community. She concluded by saying that she is also worried about crime.

HILLMAN clarified the location of the "Gold Eagle Apartment Complex" shown in the pictures provided by Mr. Hays, and it's relationship to the area to be rezoned.

TIM AUSTIN clarified that Steel Sunflowers LLC currently owns the property although American Legion #401 was listed on the original application.

There was brief discussion concerning how long it takes for property records to be changed.

BOB PARNACOTT, COUNTY LAW DEPARTMENT briefly explained the transfer process stating that the deed is filed with the Register of Deeds, and then the County Clerk makes the entry showing the new ownership under County records; however, he didn't know how long the process took.

HILLMAN commented that they checked this morning and the records do not show the property transfer.

MOTION: To approve, subject to staff recommendation.

MARNELL moved, **MCKAY** seconded the motion, and it carried (12-1).

HILLMAN – No.

4. **Case No.: ZON2007-64** – S & E Partnership, Attn: Steve Kelly (owner); Baughman Company, P.A., c/o Phil Meyer (agent) Request City zone request from unzoned to "LC" Limited Commercial on property described as;

That part of the SE1/4 of Sec. 15, Twp. 27-S, R-1-W of the 6th P.M., Sedgwick County, Kansas described as beginning at the SW corner of Lot 1, Block A, Steve Kelley 3rd Addition, Wichita, Sedgwick County, Kansas; thence N07°21'W along the west line of said Lot 1, 12.25 feet; thence N02°25'W along the west line of said Lot 1, 1499.55 feet to the NW corner of said Lot 1; thence S73°03'42"W, 103.30 feet to the east line of the Big Slough-Cowskin Creek Floodway as condemned in Case No. A-31849; thence S02°25'E along the east line of said Floodway, 127.96 feet; thence S07°21'E along the east line of said Floodway, 4.46 feet to a point 60 feet north of the south line of said SE 1/4; thence N89°33' E parallel with the south line of said SE1/4, 100.73 feet to the place of beginning. Generally located North side of Central Avenue, just east of the Big Ditch (Wichita-Valley Center Floodway).

BACKGROUND: The applicant requests a zone change on un-zoned property to "LC," Limited Commercial on a 0.4-acre site located east of the east bank along the Wichita-Valley Center Floodway and on the north side of W. Central Ave. The site is about 250-feet east of the crest of the floodway's levee and was just recently sold to the applicant from the City of Wichita. While the City owned the property, it was not zoned and was utilized as a buffer for the floodway. The applicant proposes to market the property for an unspecified commercial use. The property currently is paved for use as a parking lot.

The property is within the Flood Hazard Zone "X," which is described as the flood insurance rate zone that corresponds to areas outside the 100-year floodplain, areas of 100-year sheet flow flooding where average depths are less than 1 foot, areas of 100-year stream flooding where the contributing drainage area is less than 1 square mile, or areas protected from the 100-year flood by levees. No Base Flood Elevations or depths are shown within this zone. A Base Flood Elevation (BFE) is the height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the Flood Insurance Study report, or average depth of the base flood, usually in feet, above the ground surface.

The site's location is abutting commercial development bordering the east property line, extending east along Central Ave. The LC to the east is approximately 0.9 acres and contains a strip retail center. North of the retail center there is a residential development, which is all zoned SF-5. The 0.58-acre property south of the site, across Central Ave, has an automotive repair shop on it, zoned "GC," General Commercial, followed by (going east from this site) a 4.96-acre site containing a mini-storage facility, zoned LC and GC, and a 0.6-acre site containing an office building, zoned LC. South of the commercial developments there are single family and duplex developments zoned SF-5 and "TF-3," Two-family Residential. All other properties, west, northwest and southwest of the subject site are undeveloped, utilized as the Wichita-Valley Center Floodway.

CASE HISTORY: The site is unplatted. The site is about 250-feet east of the crest of the floodway's levee and was just recently sold to the applicant from the City of Wichita. While the City owned the property, it was not zoned and was utilized as a buffer from the floodway.

ADJACENT ZONING AND LAND USE:

NORTH:	Wichita – Valley Center Floodway	Not Developed
SOUTH:	"GC" General Commercial	Automotive Repair
EAST:	"LC" Limited Commercial	Retail Strip Store
WEST:	Wichita – Valley Center Floodway	Not Developed

PUBLIC SERVICES: The site has access to Central Avenue, classified as a 5-lane principal arterial. The traffic counts are 30,963 average daily trips on westbound Central and 27,930 average daily trips on eastbound Central at the intersection of Central and Ridge, the nearest major intersection west of the subject site. Access onto Central, including aligning access with the property across the street and determining the need for any additional turn lanes, and the need for cross lot access to abutting properties, can be addressed as part of the platting process. Public water and sewer are available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for “Commercial” development. Commercial development includes convenience centers, neighborhood centers, and large-scale retail. Convenience centers require 4-5 acres and are located along the intersections of arterials, where proper turn lanes are in place or planned to allow access to the immediate neighborhood. This site qualifies for commercial development according to current policy and plans.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within one year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding properties are zoned “LC” and “GC” with property for the Wichita-Valley Center Floodway north and west of the subject site. The properties with commercial development offer a retail strip center, mini-storage, office space and a couple of automotive repair shops.
2. The suitability of the subject property for the uses to which it has been restricted: The site’s location is abutting commercial development bordering the east property line, extending east along Central Ave. The LC to the east is approximately 0.9-acre and contains a strip retail center. North of the retail center there is a residential development, which is zoned SF-5. The 0.58-acre property south of the site, across Central Ave, has an automotive repair shop on it, zoned “GC,” General Commercial, followed by (going east from this site) a 4.96-acre site containing a mini-storage facility, zoned LC and GC, and a 0.67-acre site containing an office building, zoned LC. South of the commercial developments there are single family and duplex developments zoned SF-5 and “TF-3,” Two-family Residential. All other property, west, northwest and southwest of the subject site are undeveloped, utilized as the Wichita-Valley Center Floodway.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code and the landscaped street yard, parking lot screening, and buffer requirements of the Landscape Ordinance, which should limit noise, lighting, and other activity from adversely impacting the lower intensity residential area to the northeast.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for “Commercial” development. Commercial development includes convenience centers, neighborhood centers, and large-scale retail. Convenience centers require 4-5 acres and are located along the intersections of arterials, where proper turn lanes are in place or planned to allow access to the immediate neighborhood. This site qualifies for commercial development according to current policy and plans.
5. Impact of the proposed development on community facilities: Traffic volumes will increase. At the time of the platting traffic improvements and access control will be addressed. All other public services are available or readily accessible.

DERRICK SLOCUM, Planning Staff presented the staff report.

SLOCUM said on January 7, DAB V voted 7-0-1 to approve the zoning request.

DENNIS said DAB V also discussed platting and why this piece of property needs to be platted. He said they are not changing the use of the property, and they don’t need access or right-of-way. He asked staff to please explain why platting is necessary.

SLOCUM said platting is a common practice on rezoning requests and a requirement for any commercial zoning. He said platting is also required in order to get a building permit.

HENTZEN said considering the property and the location, what else could it be used for other than its current use as a parking lot?

SLOCUM responded that he wasn't a developer so he couldn't answer that question.

DALE MILLER explained that platting is required for all commercial rezoning, and it is also a requirement to obtain a building permit. He said applicant's have one year to plat, however, they can request an extension.

DENNIS commented then platting wasn't really necessary until they decide to build on the site?

MILLER said technically that is true unless the land changes hands. He said they have had cases where people have bought unplatted land and then found out the land needed to be platted in order for them to build on it. He said then it looks like the City didn't make the previous property owner comply with City regulations.

MCKAY asked what was the least zoning classification used to get parking?

RUSS EWY, BAUGHMAN COMPANY, commented that these points were discussed at DAB V. He said they are requesting the Limited Commercial zoning without the requirement of platting. He said they would be willing to provide any and all dedications required under the platting process and dedication of access control onto Central, which they believe can be done with a covenant. He said the zone change is being requested because the parking area is a non-conforming use. He said the applicant owns multi-tenant buildings to the east and he would like to construct additional signage for those users. He asked if a provision could be added that platting would be required if the property changes use. He said platting is not required for a sign permit, and therefore, they would like to avoid the additional time and cost to plat.

MOTION: To approve, subject to staff recommendation except platting is not required.

DENNIS moved, **HILLMAN** seconded the motion, and it carried (8-5).

DOWNING, FOSTER, JOHNSON, MCKAY, and VAN FLEET – No.

Responding to a question from **FOSTER** concerning the advisability of having unzoned property platted, **MILLER** commented that whether the property is zoned or unzoned, platting is a requirement on any type of commercial zoning.

FOSTER also asked what controls were in place to control the type of signage if property is unplatted? He mentioned the off premises signage discussed at the previous MAPC Meeting.

MILLER commented that there is a Sign Code that regulates types of signage based on zoning.

MARNELL said he is concerned about not platting now and then some future use will require platting. He asked if a protective overly could fix that possibility.

MILLER he said it was a "band aid" fix, and asked why do that when there is a prescribed solution?

MARNELL mentioned causing someone to spend more money that accomplished nothing.

CHAIRMAN MITCHELL explained that this 100-foot strip of right-of-way was created during the expansion of I-235. He said the State gave the land parallel and adjacent to the floodway to the City who

in turn sold it off in pieces. He said this type of situation is seldom seen and that it was a flaw in government.

-
5. **Case No.: CON2007-46** - Whispering Lakes LLC c/o Joe Kramer (owner) / Ruggles and Bohm P.A., c/o Terry Smythe (agent) Request Conditional use for neighborhood swimming pool on property zoned “SF-5” Single-family Residential on property described as;

Lot 12, Block 5, Whispering Lakes Estates Addition, Sedgwick County, Kansas. Generally 1/2 mile south of Harry and 1/2 mile west of 159 Street East (15314 East Rosewood Street).

BACKGROUND: The applicant requests a Conditional Use to permit a neighborhood swimming pool on a lot located on the north side of E. Rosewood Street, approximately ½ mile west of 159th Street E. and ½ mile south of E. Harry. A 1,000 square foot pool and 200 square foot pool house are proposed with 8 parking spaces. The platted lot is undeveloped. The applicant is also seeking a variance of the Zoning Code parking requirement, reducing the required parking from 10 to 8 spaces. See the attached site plan.

North and west of the site is a platted reserve; east, west and south of the site are platted, vacant, residential lots. The hours of operations and maintenance of the pool will be determined by the homeowner’s association. The code requires a landscape street yard and buffer landscaping; outdoor light that employs cut-off luminaries and light mounting standards that are not higher than one-half the distance to SF-5 zoned property. The 27-foot wide platted reserve west of the site, and 50-foot pipeline easement east of the site should ensure adequate separation from future residences.

The Unified Zoning Code defines a “neighborhood swimming pool” as a non-publicly owned swimming pool that is not located on the same lot as a residential dwelling unit but that is intended as an amenity for use by the residents and their guests of that subdivision or by a group of subdivisions in the immediate vicinity.

Neighborhood swimming pools can be a “use-by-right” if the site is identified at the time of platting, and a site plan is submitted for review and approval. After the plat is recorded, a Conditional Use is required.

CASE HISTORY: The Whispering Lakes Estates Addition was recorded in 2000.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Platted reserve
SOUTH: SF-5 Vacant residential lots
EAST: SF-5 Vacant residential lots
WEST: SF-5 Vacant residential lots

PUBLIC SERVICES: All Public services are available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this property appropriate for “urban residential.” This category encompasses areas that reflect the full range of residential development densities and types typically found in a large urban municipality.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. Prior to the issuance of building permits the applicant shall provide for review and approval a landscape plan consistent with Landscape Ordinance requirements.
2. The property will be developed in general conformance with the approved site plan.

3. Development and use of this site for a neighborhood swimming pool shall be in accordance with all applicable codes, including building, construction, health and operational standards.
4. Violation of the foregoing conditions, after appropriate due process considerations, can result in the Conditional Use being declared null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is located within a generally undeveloped portion of an SF-5 zoned single-family subdivision. HOA owned pools are common in newer subdivisions; the proposed pool will not be out of character with the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned with a single-family residence.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval will introduce a use that is not currently permitted by right. Traffic during the summer may increase when compared to a residence, however landscaping and setback standards should mitigate detrimental affects. This request is prior to development of the surrounding lots; future residential neighbors will be aware of the proposed pool prior to purchasing property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this property appropriate for “urban residential.” The proposed pool is to be used by the surrounding residential neighbors, and is consistent with the Comprehensive Plan.
5. Impact of the proposed development on community facilities: Trips to this site would likely be greater than trips generated by a single-family residence. Use of the facility will be limited to neighborhood residents and their guests, thereby minimizing traffic volume and demand for other services such as police, EMS or code enforcement. Adequate community facilities and services are in place to meet expected demands.

JESS MCNEELY, Planning Staff presented the staff report.

FOSTER commented that he has visited the site and does not believe the site plan will be able to meet all the buffering requirements required by the Landscape Ordinance. He specifically mentioned the location of the pool house, a pipeline easement, which you can’t plant shrubbery or trees in, and a utility easement on the west side of the site.

MCNEELY said the site plan might need to be modified in order to accommodate approval of the landscape plan.

TERRY SMYTHE, RUGGLES AND BOHM stated that they agreed with staff comments. He said they do not do a detailed site plan until the conditional use request has been approved. He said they are confident that they can meet all the requirements of the Landscape Ordinance.

MOTION: To approve, subject to staff recommendation.

JOHNSON moved, **HENTZEN** seconded the motion, and it carried (13-0).

-
6. **Case No.: CON2007-48** - Mathew Murray (applicant)/Doug Maryott (agent, co-applicant)
Request City Conditional Use request to permit parking and/or ancillary drive on property zoned “SF-5” Single-family Residential on property described as:

The southern most 30 feet of the west 90 feet of Lot 1, Block 7 of the Bonnie Brae Addition, Wichita, Sedgwick County, Kansas. Generally located at the southeast corner of the intersection of South Heather Road and East Peach Tree Lane (8201 East Peach Tree Lane.).

DALE MILLER, Planning Staff presented the staff report.

DAVID DENNIS reported for the record that he had received written communication on this item.

TAPE 1, SIDE 2

MILLER reported that DAB II did not take a vote on this item; however, they recommended that the use be restricted to a driveway only. He said the staff report requests ancillary parking so if the Commission decides to go with the DAB recommendation, staff will need to amend the first condition and restrict use of the property to a driveway only. He added that the applicant has agreed to this restriction. He referred Commissioners to a letter from the Bonnie Brae Neighborhood Association handed out at today's meeting.

FOSTER asked how many parking spaces were lost due to the expansion of Kellogg?

MILLER said he would ask the applicant to answer that question. He said the applicant has requested that the Commission let the neighbors talk first, and then he will be available to answer any questions at the end of the presentation.

HEATH WALLIS, 8127 PEACHTREE LANE, said he opposes this request. He said if this is used for a driveway, for what purpose? He said no parking stalls were lost at the hotel due to the Kellogg expansion. He referred to the map of the area, and asked what was going to happen to the other properties along the line and especially the neighbor to the west. He said now there is commercial property to the south, east and then possibly west. He said the City sold these lots for commercial development after the Kellogg expansion. He asked why residents should lose some of their property. He added that the owner of this property doesn't live there; he just rents it out. He said the lots are commercial size, but now they want more property.

HILLMAN asked how long Mr. Wallis has lived there, and if the lots immediately to the east are full size lots?

WALLIS said he has lived in the area six years. He said he understood that back in the 70's the City originally wanted to use the east lots as commercial development, but the homeowners association stopped it. He said the three small lots **HILLMAN** was referring to were not part of the homeowners association.

ROY MINOR, 8126 PEACHTREE LANE, said he was against this request. He said this area has been established for better than 50 years, and he sees no reason to approve this request. He said once you start chipping away, then you just keep chipping away. He said he is interested in keeping the area the way it is.

MARTY WEEKS, 8108 MOCKINGBIRD, BONNIE BRAE SUBDIVISION, BONNIE BRAE SUBDIVISION BOARD, referred board members to the letter from the Bonnie Brae Homeowners Association which outlined why they are opposed to this request. She said the owner of the lot has rented the property out for years. She said it is a large lot, and the fence needs to be replaced. She said maybe if this is passed all that would be taken care of. She said being in real estate she sees the advantage of having a large lot, and she added that she thinks he would want to keep his property in tact, however, he indicates the large lot is difficult for his tenants to maintain. She also mentioned intrusion into the

neighborhood, and said that this might set a precedent to sell other residential properties in the area for commercial use.

DOUG MARYOTT, WICHITA EAST HOTEL, said he was present to answer any questions. Responding to a question from **MARNELL**, he said yes, he was okay with restricting the use to a driveway only.

MOTION: To approve, subject to staff recommendation and change the recommendation to a driveway only.

MARNELL moved, **MCKAY** seconded the motion, and it carried (12-1). **FOSTER**—No.

7. **Case No.: DR2005-21** – Request County zone change from "RR" Rural Residential to "AFB" Air Force Base on property described as;

Generally located South of 47th Street South and east of Oliver.

Background: In November 2006, the Sedgwick County Commission and Wichita City Council directed staff of the Wichita-Sedgwick County Metropolitan Area Planning Department to proceed with a number of zoning code text and zoning map amendments in order to implement the recommendations of the Implementation Coordination Committee for the *McConnell Air Force Base Joint Land Use Study, May 2005* (JLUS).

One of the zoning map amendments was to change the zoning of the properties owned by McConnell Air Force Base to a newly-created "AFB" Air Force Base zoning district. In March 2007, the MAPC considered the proposed "AFB" Air Force Base rezoning and recommended it for approval. The governing bodies approved the rezoning in April 2007. However, when the zoning map was updated, two parcels were discovered within McConnell Air Force Base that did not exist in Sedgwick County's property database. Therefore, these two parcels were excluded from the original rezoning and still need to be rezoned from "RR" Rural Residential to "AFB" Air Force Base. The two parcels are located south of 47th Street South and west of Oliver and are shown on the map below.

A notice of the January 10, 2008, public hearing before the MAPC on the proposed rezoning to "AFB" Air Force Base was published in *The Derby Reporter* and *The Wichita Eagle* on December 20, 2007. A notice of the MAPC hearing was mailed to McConnell Air Force Base as well as to owners of property within a 1,000-foot radius of the parcels proposed for rezoning.

Recommended Action: Based on information available prior to the public hearing, staff recommends that the proposed zone change from "RR" Rural Residential to "AFB" Air Force Base be **APPROVED**. This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood**: The remainder of McConnell Air Force Base property is zoned "AFB" Air Force Base. The "AFB" Air Force Base District is an intensive industrial zoning classification that matches the uses and character of McConnell and is a more appropriate zoning classification for the two parcels proposed for rezoning than the existing "RR" Rural Residential zoning classification.
2. **The suitability of the subject property for the uses to which it has been restricted**: The two parcels proposed for rezoning are unsuitable for the residential and agricultural uses to which they are restricted by the current "RR" Rural Residential zoning classification due to their location within the "clear zone" for the McConnell Air Force Base runways. The "AFB" Air Force Base

District is specifically tailored for AFB property and, therefore, is the most suitable zoning classification for these parcels.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Nearby properties should not be detrimentally affected by the proposed zoning change. The remainder of McConnell Air Force Base is zoned "AFB" Air Force Base, and the use of the two parcels proposed for rezoning will not change based on changing the parcels' zoning classification.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed rezoning is consistent with the recommendations of the *McConnell Air Force Base Joint Land Use Study, May 2005* (JLUS). The JLUS recommends revising current regulatory requirements to minimize potential safety conflicts, as recommended by the Federal Land Use Compatibility Guidelines. The proposed rezoning furthers this objective. Additionally, the two parcels proposed for rezoning are shown on the "2030 Wichita Functional Land Use Guide" as appropriate for "major institutional" use. The "AFB" Air Force Base zoning classification is specifically tailored for McConnell Air Force Base, a major institutional use.

SCOTT KNEBEL, Planning staff presented the staff report.

MOTION: To approve, subject to staff recommendation.

MCKAY moved, **HENTZEN** seconded the motion, and it carried (12-0).

MCKAY asked about the possibility of a workshop for new board members. It was the general consensus of the Commission to hold a workshop.

DIRECTOR SCHLEGEL said he would send an e-mail to Commissioners requesting the items they would like addressed at the workshop so that staff can put together an agenda.

The Metropolitan Area Planning Department informally adjourned at 2:36 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2008.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)